

MOSER LAW FIRM, P.C.

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June 22, 2020

Dwayne J. Scott
13921 SW 22nd Pl
Davie, FL 33325

Dwayne J. Scott
139-03 Lakewood Avenue
Jamaica, NY 11435

RE: *Scott v. Whole Foods Market Group, Inc.*, 16-cv-00641(SJF)(AKT)

Dear Mr. Scott:

Enclosed please find the following:

1. Civil conference minute order dated March 9, 2020;
2. Report and recommendation of the Hon. H Kathleen Tomlinson, United States Magistrate Judge dated May 12, 2020;
3. Civil cause for status conference before the Hon. Sandra J Feuerstein, United States District Court Judge dated June 16, 2020.

Judge Feuerstein has specifically instructed this office to advise you that there is a telephone status conference set for July 15, 2020 at 10 AM. She has directed all parties to call chambers teleconferencing number, 877-336-1280 and to follow the automated instructions. The access code is 7215690.

Very truly yours,



Steven J. Moser

I hereby certify under the penalties of perjury that I sent the within letter by USPS first class mail, with all listed enclosures, to Dwayne Scott at all addresses on file on June 22, 2020.

Dated: June 22, 2020



Alejandra Silva

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 3-9-2020
TIME: 11:28 a.m. (30 minutes)

Scott, et al. v. Whole Foods Market Group, Inc.
CV 18-86 (SJF) (AKT)

TYPE OF CONFERENCE: **THIRD AND FINAL
SHOW CAUSE HEARING**

APPEARANCES: Plaintiff: Steven John Moser

Defendants: Christopher Michael Pardo by telephone

Directed to Appear: Plaintiff Dwayne Scott – **NO APPEARANCE**

FTR: 11:28-11:58

THE FOLLOWING RULINGS WERE MADE:

1. After reviewing for the record the chronology of this action with respect to Plaintiff Dwayne Scott, including the multiple prior Orders directed to and served upon Plaintiff Scott concerning his representation in this action as well as his failure to participate in the action and to fulfill his discovery obligations, I have GRANTED Attorney Moser's motion to withdraw as counsel on behalf of Dwayne Scott.

In addition, it appears that Plaintiff Dwayne Scott has abandoned his claims in this action since he has not communicated with his counsel and has never responded to the Orders served upon him by his counsel as well as by the Court. For this reason, and the reasons stated in the record of today's proceedings, this Court respectfully recommends to Judge Feuerstein that the claims of Dwayne Scott be dismissed for failure to prosecute, failure to cooperate and communicate with his counsel of record, and failure to comply with the Orders of this Court. In order for this recommendation to be sent to Judge Feuerstein and addressed by her, counsel will need to jointly arrange to obtain the transcript of today's proceedings promptly. Counsel may do so by contacting Courtroom Deputy Mary Ryan at 631-712-5765.

2. The Court also addressed the pending motions to quash subpoenas filed at DE 52, 53, 54 and 55 as well as the opposition filed at DE 56. For the reasons stated in the record today, the motions to quash are GRANTED.
3. Apparently, the parties have had an ongoing dispute as to the contents of a proposed Stipulation and Order of Confidentiality. I have directed counsel to have a further meet-and-confer to resolve this issue. If counsel still have a dispute after doing so, they can address this issue to Judge Feuerstein at the upcoming status conference.

SO ORDERED.

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
DWAYNE J. SCOTT and DERELL J. MEYNARD,
*individually and on behalf of all others similarly
situated*

Plaintiffs,

- against -

WHOLE FOODS MARKET GROUP, INC.,

Defendant.
-----X

**REPORT AND
RECOMMENDATION**

CV 18-86 (SJF) (AKT)

A. KATHLEEN TOMLINSON, Magistrate Judge:

On March 9, 2020, this Court conducted a third and final show cause hearing to address the motion of the Moser Law Firm PC, by Steven John Moser, Esq., to be relieved as counsel of record in this action for plaintiff Dwayne J. Scott. Plaintiff Scott did not appear at the hearing and did not communicate in any way with the Court. The Court made its findings and recommendation on the record during the March 9, 2020. In addition to relieving the Moser Law Firm from its representation of Dwayne J. Scott, the Court recommended to Judge Feuerstein that plaintiff Scott's action against the defendant be dismissed for failure to prosecute and failure to comply with the Orders of this Court. The Court instructed counsel to obtain a copy of the transcript so that the findings and recommendation could be forwarded to Judge Feuerstein. The transcript has now been posted to ECF and is incorporated by reference into this Report and Recommendation. *See* DE 64.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72 of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report and Recommendation to file

written objections. *See* FED. R. CIV. P. 6(a), (e). Such objections by an attorney of record shall be filed with the Clerk of the Court via ECF. Any objections by a *pro se* party shall be filed with the Clerk of the Court by overnight mail or regular mail. **A courtesy copy of any objections filed is to be sent to the Chambers of the Honorable Sandra Feuerstein. Any requests for an extension of time for filing objections must be directed to Judge Feuerstein prior to the expiration of the fourteen (14) day period for filing objections.** Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Beverly v. Walker*, 118 F.3d 900, 901 (2d Cir. 1997), *cert. denied*, 522 U.S. 883 (1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Plaintiff's counsel is directed to serve a copy of (1) the March 9, 2020 transcript and (2) this Report and Recommendation forthwith upon plaintiff Dwayne J. Scott by overnight mail and first-class mail (and email to the extent possible) and to file proof of such service on ECF by May 15, 2020.

SO ORDERED:

Dated: Central Islip, New York
May 12, 2020

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
United States Magistrate Judge

CIVIL CAUSE FOR STATUS CONFERENCE

BEFORE: JUDGE FEUERSTEIN

FILED
CLERK
6/16/2020 12:17 pm

DATE: June 16, 2020

TIME: 30 min

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

CASE NUMBER: 2:18-cv-00086-SJF-AKT

CASE TITLE: Scott et al v. Whole Foods Market Group, Inc.

PLTFFS ATTY: Steven Moser

X present

not present

DEFTS ATTY: Christopher Pardo

X present

not present

COURT REPORTER: N/A

COURTROOM DEPUTY: BMM

OTHER:

X CASE CALLED.

ARGUMENT HEARD / CONT'D TO

DECISION: ORDER(S) SIGNED / ENTERED ON THE RECORD / RESERVED.

OTHER TELEPHONE STATUS CONFERENCE SET FOR 7/15/2020 at 10 AM

before Judge Feuerstein. At that time, the parties are to call
Chambers' teleconferencing number, (877)336-1280, and follow the
automated instructions; the access code is: 7215690.